

JS 44C/SDNY
REV. 12/2005

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
JEAN MONPLAISIRDEFENDANTS
ST. LUKE'S-ROOSEVELT HOSPITAL CENTER

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

FRANK & ASSOCIATES, P.C.,
500 BI-COUNTY BOULEVARD, SUITE 112N
EASTMANVILLE, NY 11725 (621 756 0400)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

42 U.S.C. SECTION 12101, ET SEQ.
EMPLOYMENT DISCRIMINATION BASED ON DISABILITYHas this or a similar case been previously filed in SDNY at any time? No ☒ Yes? ☐ Judge Previously AssignedIf yes, was this case Vol ☐ Invol. ☐ Dismissed: No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [X] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 362 PERSONAL INJURY -	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 400 STATE				
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	<input type="checkbox"/> MED MALPRACTICE	<input type="checkbox"/> 620 FOOD & DRUG	28 USC 158	REAPPORTIONMENT				
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 410 ANTITRUST				
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	<input type="checkbox"/> PRODUCT LIABILITY	SEIZURE OF	28 USC 157	<input type="checkbox"/> 430 BANKS & BANKING				
<input type="checkbox"/> INSTRUMENT	<input type="checkbox"/> SLANDER	<input type="checkbox"/> 368 ASBESTOS PERSONAL	<input type="checkbox"/> 630 LIQUOR LAWS		<input type="checkbox"/> 450 COMMERCE/ICC				
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> 330 FEDERAL	<input type="checkbox"/> INJURY PRODUCT	21 USC 881		RATES/ETC				
<input type="checkbox"/> OVERPAYMENT &	<input type="checkbox"/> EMPLOYERS'	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 640 RR & TRUCK		<input type="checkbox"/> 460 DEPORTATION				
<input type="checkbox"/> ENFORCEMENT OF	<input type="checkbox"/> LIABILITY		<input type="checkbox"/> 650 AIRLINE REGS		<input type="checkbox"/> 470 RACKETEER INFLU-				
<input type="checkbox"/> JUDGMENT	<input type="checkbox"/> 340 MARINE		<input type="checkbox"/> 660 OCCUPATIONAL		ENCED & CORRUPT				
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT		SAFETY/HEALTH		ORGANIZATION ACT				
<input type="checkbox"/> 152 RECOVERY OF	<input type="checkbox"/> LIABILITY		<input type="checkbox"/> 690 OTHER		(RICO)				
<input type="checkbox"/> DEFAULTED	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 370 OTHER FRAUD			<input type="checkbox"/> 480 CONSUMER CREDIT				
<input type="checkbox"/> STUDENT LOANS	<input type="checkbox"/> 355 MOTOR VEHICLE	<input type="checkbox"/> 371 TRUTH IN LENDING			<input type="checkbox"/> 490 CABLE/SATELLITE TV				
<input type="checkbox"/> (EXCL VETERANS)	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> 380 OTHER PERSONAL			<input type="checkbox"/> 810 SELECTIVE SERVICE				
<input type="checkbox"/> 153 RECOVERY OF	<input type="checkbox"/> 360 OTHER PERSONAL	<input type="checkbox"/> 385 PROPERTY DAMAGE			<input type="checkbox"/> 850 SECURITIES/				
<input type="checkbox"/> OVERPAYMENT OF	<input type="checkbox"/> INJURY	<input type="checkbox"/> PRODUCT LIABILITY			COMMODITIES/				
<input type="checkbox"/> VETERANS BENEFITS					EXCHANGE				
<input type="checkbox"/> 160 STOCKHOLDERS SUITS					<input type="checkbox"/> 875 CUSTOMER				
<input type="checkbox"/> 190 OTHER CONTRACT					CHALLENGE				
<input type="checkbox"/> 195 CONTRACT PRODUCT					12 USC 3410				
<input type="checkbox"/> LIABILITY					<input type="checkbox"/> 891 AGRICULTURE ACTS				
<input type="checkbox"/> 196 FRANCHISE					<input type="checkbox"/> 892 ECONOMIC				
					STABILIZATION ACT				
					<input type="checkbox"/> 893 ENVIRONMENTAL				
					MATTERS				
					<input type="checkbox"/> 894 ENERGY				
					ALLOCATION ACT				
					<input type="checkbox"/> 895 FREEDOM OF				
					INFORMATION ACT				
					<input type="checkbox"/> 900 APPEAL OF FEE				
					DETERMINATION				
					UNDER EQUAL ACCESS				
					TO JUSTICE				
					<input type="checkbox"/> 950 CONSTITUTIONALITY				
					OF STATE STATUTES				
					<input type="checkbox"/> 890 OTHER STATUTORY				
					ACTIONS				

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint
JURY DEMAND: ☒ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY)

- ORIGIN**
- ☒ 1 Original Proceeding
- ☐ 2a. Removed from State Court
- ☐ 2b. Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from (Specify District)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- AND at least one party is a pro se litigant

(PLACE AN x IN ONE BOX ONLY)

- BASIS OF JURISDICTION**
- ☐ 1 U.S. PLAINTIFF
- ☐ 2 U.S. DEFENDANT
- ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
- ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1332, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] []	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] []	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] []
CITIZEN OF ANOTHER STATE	[] []	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] []	FOREIGN NATION	[] []

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

JEAN MONPLAISIR
C/O FRANK & ASSOCIATES, P.C.
500 BI-COUNTY BOULEVARD, SUITE 112N
FARMINGDALE, NEW YORK 11735

RESIDENT OF QUEENS COUNTY

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

ST. LUKE'S-ROOSEVELT HOSPITAL CENTER
1111 AMSTERDAM AVENUE
NEW YORK, NEW YORK 10025

NEW YORK COUNTY

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ FOLEY SQUARE
(DO NOT check either box if this a PRISONER PETITION.)

DATE 1/5/07 SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

☒ YES (DATE ADMITTED Mo. _____ Yr. _____)
Attorney Bar Code # WF-0521

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

AO 440 (Rev. 10/93) Summons in a Civil Action - SDNY WEB 4/99

United States District Court

SOUTHERN

DISTRICT OF

NEW YORK

JEAN MONPLAISIR

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

ST. LUKE'S-ROOSEVELT HOSPITAL CENTER

TO: (Name and address of defendant)

ST. LUKE'S-ROOSEVELT HOSPITAL CENTER
1111 AMSTERDAM AVENUE
NEW YORK, NEW YORK 10025

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

FRANK & ASSOCIATES, P.C.
500 BI-COUNTY BOULEVARD
SUITE 112N
FARMINGDALE, NEW YORK 11735
(631) 756-0400

an answer to the complaint which is herewith served upon you, within 30 (THIRTY) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

AO 440 (Rev. 10/93) Summons In a Civil Action -SDNY WEB 4/99

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted: _____
- ☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JEAN MONPLAISIR,

Plaintiff,

- against -

ST. LUKE'S-ROOSEVELT HOSPITAL
CENTER,

Defendant.
-----X

COMPLAINT

Index Number:

Jury Trial Demanded

07-cv-108 (PKC)
ECF CASE

Plaintiff, JEAN MONPLAISIR, by and through his attorneys, FRANK & ASSOCIATES, P.C., complains and alleges as follows:

1. PRELIMINARY STATEMENT

1. Plaintiff brings this civil action seeking declaratory relief, monetary damages and affirmative relief based upon Defendant's violation of the Americans with Disabilities Act of 1990 (hereinafter "ADA"), 42 U.S.C. §12101, *et seq.*, the New York State Human Rights Law (hereinafter "NYSHRL"), N.Y. EXEC. LAW §296 *et seq.* (McKinney 1993 and 2001 Supp.), and other appropriate rules, regulations, statutes and ordinances.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 42 U.S.C. §12117, 28 U.S.C. § 1331 and 29 U.S.C. §1161 *et seq.* This Court has jurisdiction over all state law claims brought in this action pursuant to 28 U.S.C. § 1367.
3. This action properly lies in the United States District Court, Southern District of New York, pursuant to 28 U.S.C. § 1391 because the unlawful employment practices alleged herein occurred in the State of New York, County of New York.

4. This Court has the power to issue declaratory relief pursuant to 28 U.S.C. §§2201 and 2202.
5. Plaintiff filed a timely charge of discrimination on the basis of his disability with the State of New York Executive Department, Division of Human Rights, which charge was cross-filed with the United States Equal Employment Opportunity Commission (hereinafter "EEOC") and brings this action within ninety (90) days of the receipt of a Notice of Right To Sue, issued by the EEOC October 10, 2006.

III. PARTIES

6. Plaintiff, **JEAN MONPLAISIR** was at all times relevant herein, a domiciliary of the State of New York residing in the County of Queens.
7. At all times relevant to the Complaint, Plaintiff was an "employee" within the meaning of 42 U.S.C. §12111(4) and a "person" within the meaning of Section 292(1) of the NYSHRL.
8. At all times relevant to the Complaint, Plaintiff was a "qualified individual with a disability" within the meaning of 42 U.S.C. §12111(8) and has suffered from a "disability" within the meaning of Section 292(21) of the NYSHRL.
9. Upon information and belief, at all times relevant to the Complaint, Defendant, **ST. LUKE'S-ROOSEVELT HOSPITAL CENTER**, (hereinafter "Defendant") is a not-for-profit entity existing under the laws of the State of New York.
10. Upon information and belief, at all times relevant to the Complaint, Defendant does business in the State of New York in the County of New York at 1111 Amsterdam Avenue, New York, New York 10025.
11. At all times relevant to the Complaint, Defendant has been an "employer" within the

meaning of 42 U.S.C. § 12111(5), and Section 292(5) of the NYSHRL.

12. Upon information and belief, and at all times relevant to the Complaint, Defendant employed more than fifteen (15) employees.

IV. FACTS

13. Plaintiff repeats and alleges each and every allegation contained herein.
14. In or about October 1986, Plaintiff was hired by Defendant as a Maintainer in the Maintenance Department,
15. At all times relevant herein, Plaintiff's work performance was satisfactory.
16. Plaintiff suffers from a serious back injury.
17. On or about March 19, 2005 Plaintiff began a medical leave of absence due to Plaintiff's back injury.
18. Plaintiff was granted a medical leave of absence for an indefinite period until he was fully recovered.
19. Plaintiff suffered a disability within the meaning of the Americans with Disabilities Act and the New York State Human Rights Law.
20. Plaintiff was a disabled employee protected from unlawful termination while on an approved disability leave of absence.
21. Plaintiff was cleared and accepted to return to work on or about August 1, 2005.
22. On or about July 27, 2005 Plaintiff was terminated from his position while out of work on his approved medical leave of absence.
23. At the time of his discharge, Plaintiff was able to perform the duties of his job with or without a reasonable accommodation.
24. Based upon the foregoing, Plaintiff's termination was the result of an unlawful

discriminatory action relating to employment because of Plaintiff's disability.

25. Defendant's termination of Plaintiff's employment and failure to reinstate him to his former position or any position Plaintiff was able to perform with reasonable or no accommodation was discriminatory and unlawful, in that it was based upon Plaintiff's disability.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Americans with Disabilities Act - Disability Discrimination)

26. Plaintiff repeats and realleges each and every allegation contained herein.
27. Plaintiff has been discriminated against by Defendant on the basis of his disability in violation of the ADA, by Defendant engaging in a course of conduct which included wrongfully discharging and/or refusing to reinstate Plaintiff's employment because of his disability or perceived disability.
28. As a proximate result of Defendant's discrimination, Plaintiff has suffered and continues to suffer substantial loss of past and future earnings, deferred compensation, bonuses and other employment benefits.
29. As a further and proximate result of Defendant's actions, Plaintiff suffered and continues to suffer severe and lasting embarrassment, humiliation, mental and physical anguish and other incidental and consequential damages and expenses.
30. The conduct of the Defendant was done in conscious disregard of Plaintiff's rights. Therefore, Plaintiff is entitled to equitable and injunctive relief, an award of compensatory damages, punitive damages, expenses and attorneys' fees in amount to be determined at trial.

SECOND CLAIM FOR RELIEF
(NYSHRL - Disability Discrimination)

31. Plaintiff repeats and realleges each and every allegation contained herein.
32. Plaintiff has been discriminated against by Defendant on the basis of his disability in violation of the NYSHRL, by Defendant's course of conduct, which included wrongfully discharging and refusing to reinstate Plaintiff to his employment because of his disability.
33. As a proximate result of Defendant's discrimination, Plaintiff has suffered and continues to suffer substantial loss of past and future earnings, deferred compensation, bonuses and supplemental employment benefits.
34. As a further and proximate result of Defendant's actions, Plaintiff suffered and continues to suffer severe and lasting embarrassment, humiliation, mental and physical anguish and other incidental and consequential damages and expenses.
35. The conduct of Defendant was done in conscious disregard of Plaintiff's rights. Therefore, Plaintiff is entitled to equitable and injunctive relief and an award of compensatory damages in amount to be determined at trial.

VI. DEMAND FOR JURY TRIAL

36. Plaintiff hereby demands a trial by jury.

WHEREFORE, as a result of the discriminatory conduct and actions of the Defendant herein alleged, Plaintiff demands:

- a. judgment declaring Defendant violated the aforementioned statutes;
- b. Defendant, its agents, employees, officers, and successors in interest, and those acting in concert with Defendant, be permanently enjoined from discriminating against, harassing or retaliating against Plaintiff on any basis forbidden by the

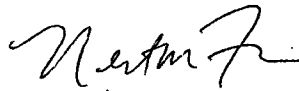
ADA and NYSHRL;

- c. that Plaintiff be made whole in the form of back pay and front pay and afforded all benefits which would have been afforded Plaintiff but for said discrimination;
- d. Defendant be ordered to compensate, reimburse and make the Plaintiff whole for compensatory damages in an amount to be determined at trial;
- e. Defendant be ordered to pay Plaintiff punitive damages in an amount to be determined at trial;
- f. Defendant be ordered to pay Plaintiff prejudgment interest;
- g. Defendant be ordered to pay the costs and disbursements of this action, including Plaintiff's attorneys' fees; and
- h. for such other and further relief as may be just and proper.

Dated: Farmingdale, New York
January 5, 2007

FRANK & ASSOCIATES, P.C.
Attorneys for Plaintiff

By: _____



Neil M. Frank (NF-0521)
500 Bi-County Blvd. Suite 112N
Farmingdale, New York 11735
(631) 756-0400